sions and confessions, and is most frequent in the latter, these rules are generally discussed under admissions by text writers. See Wigmore, *Evidence* (1905) sec. 1810; Chamberlayne, *Evidence* (1911) sec. 1350; Jones, *Evidence* (Horwitz ed. 1913) sec. 265. But it is clear that the statements to be testified to need not on principle be admissions, and courts have permitted the introduction of testimony as to what was said through an interpreter in order to impeach the credibility of witnesses. *Meacham v. The State* (1903) 45 Fla. 71, 33 So. 983; *cf. People v. Jailles* (1905) 146 Calif. 301, 79 Pac. 965.

EVIDENCE—JUDICIAL NOTICE OF A CITY ORDINANCE ON APPEAL.—The defendant was convicted in the Municipal Court of Chicago of a violation of a city ordinance, the judge taking judicial notice of the ordinance. The defendant appealed without making the ordinance a part of the record by a bill of exceptions. *Held,* that the Supreme Court could not take notice of the ordinance, even though the Municipal Court had done so. *City of Chicago v. Lost* (1919, Ill.) 124 N. W. 580.

It is the general rule that a municipal court must take judicial notice of the ordinances of the municipality wherein its jurisdiction lies. *State v. Fulco* (1914) 135 La. 269, 65 So. 239; *Portland v. Yick* (1904) 44 Ore. 439, 75 Pac. 706; *contra, City of St. Louis v. Young* (1911) 235 Mo. 44, 138 S. W. 5. But a state court, upon the original trial of a case, will not take judicial notice of ordinances, nor will a court which has a dual jurisdiction, municipal and state, when it is acting in the latter capacity. *State v. Pinyan* (1915) 17 Ariz. 123, 149 Pac. 316; *People v. Quider* (1912) 172 Mich. 280, 137 N. W. 546. An interesting situation arises where there is an appeal to a state court from a municipal court which *has* judicially noticed an ordinance. The cases on the point fall into three classes. The first class, of which the principal case is an example, hold that the appellate court will not notice the ordinance, and that it must be incorporated in the record on appeal. *Thomas v. State* (1915) 13 Ala. App. 421, 69 So. 413; *Porter v. City of Thomasville* (1915) 16 Ga. App. 313, 85 S. E. 283; *Karchmer v. State* (1911) 61 Tex. Cr. Rep. 221, 134 S. W. 700. This is the weight of authority and may be justified on grounds of policy. A state court could hardly be expected to take cognizance of the vast mass of poorly collected and poorly reported legislation turned out by the law-making bodies of numerous cities, towns, and villages. The second class of cases hold that the appellate court must take notice of the ordinance if the municipal court did so. *Sidelsky v. Atlantic City* (1913, Sup. Ct.) 84 N. J. L. 198, 86 Atl. 531; *City of Milbank v. Cronlokken* (1912) 29 S. D. 46, 135 N. W. 711; *Village of Minnesota v. Martin* (1914) 124 Minn. 498, 145 N. W. 383 (by statute). This view seems more logical and is analogous to the rule that the power of the Supreme Court of the United States to take judicial notice is co-extensive with the power of the court from which appeal is taken. *Cf. Hanley v. Donoghue* (1885) 116 U. S. 1, 6 Sup. Ct. 242. The third class of cases hold that if the appellate court is trying the case *de novo,* it must notice whatever the municipal court noticed, but that if the appellate court is reviewing the case, it will not take notice. *Foley v. State* (1894) 42 Nebr. 233, 60 N. W. 574; *Steiner v. State* (1907) 78 Nebr. 147, 110 N. W. 723; *cf. Portland v. Yick, supra.* It is submitted that in view of the disorderly and unsystematized condition of municipal records, the principal case represents the best rule, although it seems wrong in theory, and although it offers a fatal trap to an unwary attorney for the appellant.

PLEADING — ACCOUNT STATED — GENERAL DENIAL — EVIDENCE. — The plaintiff brought an action upon an account stated. The defendant entered a general

denial and offered evidence as to the nature and value of the services rendered by the plaintiff. *Held,* that such evidence was admissible to rebut the implication of a promise to pay. *Clare v. Kelley* (1919, Sup. Ct.) 177 N. Y. Supp. 212.

It is generally said that an account stated will be deemed conclusive between the parties, unless fraud, mistake, or omission is alleged and proved. *Commercial Electrical Supply Co. v. Meysenberg* (1900) 85 Mo. App. 337. Following this doctrine, testimony concerning the quality of the goods sold, which was the basis of an account stated, has been excluded. *Tabor Coal & Supply Co. v. Cohen* (1914) 189 Ill. App. 190. However, the court in the instant case arrived at a contrary conclusion, and it is submitted rightly so, both on principle and authority. An account stated presupposes a subsisting debt, hence any facts tending to destroy the plaintiff's claim ought to be admitted under a general denial. *Mayer Coal Co. v. Stallsmith* (1913) 89 Kan. 81, 129 Pac. 831. So the previous transactions between parties may be investigated to ascertain whether or not the relationship of debtor and creditor ever existed. See *Cooper v. Upton* (1906) 60 W. Va. 648, 657, 64 S. E. 523, 527. And it is competent for the defendant to prove the payments made before the time when the complaint alleges an account was stated. *Kaminsky v. Mendelson* (1898, Sup. Ct.) 25 Misc. 500, 54 N. Y. Supp. 1010. Some courts have gone even further in determining the prior existence of the account which was stated, and under a general denial have usually allowed the introduction of any facts or circumstances which would tend to show the inherent improbability of the defendant's agreement to such an account. *Coffee v. Williams* (1894) 103 Calif. 550, 37 Pac. 504; *Baker v. Griffin* (1904, Sup. Ct.) 43 Misc. 1, 86 N. Y. Supp. 579. In accord with this rule, the defendant in the principal case was permitted to show the nature and value of the services rendered, not for the purpose of diminishing the recovery, but as evidence that no account was stated. Such evidence is relevant and has a logical bearing upon the probability of the occurrence of the transaction which the plaintiff claims resulted in the creation of the new liquidated debt.

PROPERTY—DEDICATION—ACCEPTANCE—RECORDING PLAT.—A tract of land was platted by its owner upon a map, designating certain portions as streets and highways. The map was filed and recorded, though the street was never used or formally accepted. Sometime thereafter, the plaintiff and the predecessor of the defendant's grantor acquired the land on either side of the disputed street by deed, but no specific reference was made to the map. The plaintiff remained in possession of his land and the street until ousted by the defendant's grantor, who conveyed lots 2 and 3, as indicated on the recorded map, to the defendant. The plaintiff brought ejectment against the defendant, who claimed title, as an abutting land owner, to the center of this street. *Held,* that the plaintiff should recover, since the dedication had never been accepted and, therefore, the defendant's deed carried no title to the street. *Elliott v. McIntosh* (1919, Calif.) 183 Pac. 692.

By the doctrine of dedication, a private owner by informal action is enabled to create a legal power in the public to vest in itself title in his land. See Elliott, *Roads & Streets* (3d ed. 1911) ch. v. This has usually been based upon the theory of estoppel, though text writers have voiced much opposition to this, on the ground that in many cases the general public has not altered its position in reliance on the offer. See *Pittsburg, etc. Ry. v. Crown Point* (1898) 150 Ind. 536, 550, 50 N. E. 741, 745; Angell, *Highways* (3d ed. 1886) sec. 156. Dedication cannot be said to be in the nature of a grant, since it requires no writing or definite grantee. *Forney v. Calhoun County* (1888) 84 Ala. 215, 4 So. 153. Hence the rule would seem to be a mere anomaly that has grown up in the law of conveyances. The great weight of authority requires the public to accept